IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 19966 of 2004

Between:

M/s. Krishna Spices Pvt.Ltd., Guntur rep by its Joint Managing Director, Hari Om Maheswari, S/o Late Rathanlal Maheswari
R/o 7th Lane, Chandra Mouli Nagar, Guntur, Guntur District

..... PETITIONER

AND

Regional Provident Fund Commissioner-II, Employees Provident Fund Organization, Sub-Regional Office, 3rd Lane, Krishna Nagar, Guntur, Guntur District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue appropriate Writ, order or direction more particularly one in the nature of Writ of Prohibition directing the respondent not to proceed with the enquiry in pursuant to the notice dated 12-2-2004 as to the eligibility of the workmen to be treated as the employees of the petitioner company under the provisions of the Employees Provident Fund and Miscellaneous Provisions act, and transfer the file to Regional provident Fund Commissioner at Hyderabad or any other officer/Authority in the State of Andhra Pradesh.

Counsel for the Petitioner: MR.RAMA RAO GHANTA

Counsel for the Respondent: MR.R.N.REDDY FOR RVAK.

The Court made the following:

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ORAL ORDER:

Alleging that respondent had pre-determined the issue relating to its liability to pay the contribution under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short 'the Act'), petitioner, by this petition is seeking transfer of the case from the respondent's office to the office of the Regional Provident Fund Commissioner at Hyderabad or any other authority in the state of Andhra Pradesh.

2. The contention of the learned counsel for the petitioner is that since a reading of the order dated 18.10.2004 passed by the respondent on the representation submitted by the petitioner on the very same day, in response to the show cause notice issued to it, would reveal that the respondent has made up his mind to negative the contention of the petitioner, petitioner apprehends that it may not get justice if the case is heard by the respondent, and so the case may be transferred either to the office at Hyderabad or to some other regional office in the State of Andhra Pradesh by placing strong reliance on **VILLAGE RECONSTRUCTION ORGANISATION v THE REGIONAL PROVIDENT FUND COMMISSIONER II AND ANOTHER** in support of the said contention. The contention of the learned standing counsel for the respondent is that since the respondent did not decide the case against the petitioner and had only answered the contentions of the petitioner in the reply to the show cause notice and in any event since the petitioner has a remedy of appeal under section 7-I of the Act, against an order passed by the respondent, petitioner cannot be said to be aggrieved by the impugned order and since the decision in **VILLAGE RECONSTRUCTION ORGANISATION** case (1 supra) was rendered at a time when no appellate authority was constituted and since there is an appellant authority now, petitioner is not entitled to any relief.

3. Since the respondent, by the order impugned, gave a chance to the petitioner to substantiate its case before the Commission of Inquiry, petitioner can adduce evidence before the Commission of Inquiry. After the Commission of Inquiry records the evidence adduced and sends it to the respondent, he would pass an order on

the basis of such evidence recorded. That order passed by the respondent can be questioned in appeal under section 7-I of the Act by the aggrieved party. So, it cannot be said that petitioner is prejudiced by the order impugned directing it to adduce evidence before the Commission of Inquiry more so because, during the course of arguments, it is stated that the officer who passed the order impugned is likely to be transferred by the end of April, 2005. Hence, I find no merits in this petition.

4. Petition, therefore, is dismissed. No costs.

(C.Y.Somayajulu, J.)

Date: 10.03.2005

Cvrk

To

1. The Regional Provident Fund Commissioner-II, Employees Provident Fund Organization, Sub-Regional Office, 3rd Lane, Krishna Nagar, Guntur, Guntur District.

2. 2 CD copies

3. 1 CC to MR.RAMA RAO GHANTA

4. 1 CC to MR.REDDY